

## **2009 DRAFTING REQUEST**

### **Bill**

Received: **02/25/2009**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Pam Shannon**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Military Affairs - emerg govt**

Extra Copies:

Submit via email: **YES**

Requester's email: **Pam.Shannon@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### **Pre Topic:**

No specific pre topic given

---

### **Topic:**

Urban search and rescue units

---

### **Instructions:**

see attached

---

### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P2	rnelson2 03/19/2009	kfollett 03/19/2009	phenry 03/19/2009	_____	mbarman 03/19/2009		
/1	rnelson2 04/20/2009	kfollett 04/20/2009	jfrantze 04/20/2009	_____	sbasford 04/20/2009	cduerst 05/21/2009	
				_____	mbarman 05/20/2009		

FE Sent For: **NONE**

**<END>**

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				_____	mbarman 05/20/2009		
				_____			

e-mail  
only

FE Sent For:

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/1	rnelson2 04/20/2009	kfollett 04/20/2009	jfrantze 04/20/2009	_____	sbasford 04/20/2009		

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/?							
/P2	rnelson2 03/19/2009	kfollett 03/19/2009	phenry 03/19/2009	_____	mbarman 03/19/2009		

FE Sent For:

1/16f  
4/20

4/20

4/20  
<END>

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/?	rnelson2	1P2/gf	3/19	7/19	7/19	ph/np	
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FE Sent For:

<END>

**Nelson, Robert P.**

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**From:** Shannon, Pam  
**Sent:** Wednesday, February 25, 2009 9:38 AM  
**To:** Ryan, Robin; Nelson, Robert P.  
**Cc:** Sweet, Richard; Milsap, Randi - DMA  
**Subject:** FW: E-gov Special Committee

**Attachments:** Specialty Task forces template.doc



Specialty Task  
forces template...

Hi Robin and Bob,

Attached is the urban search and rescue team language from Randi Milsap. (These teams are variously also referred to as "collapse rescue teams" or "specialty task forces". Randi may have further thoughts on how best to refer to them). Sen. Jauch and Rep. Ballweg would like to have Randi's language drafted as an insert to the main bill, for consideration by the full committee. Please call Randi directly (242-3072) if you have questions about the drafting she has done on this.

We are now looking at having the full committee meet on Thursday, April 2 at 9:00, rather than the earlier date we mentioned. This will give us all considerably more time to pull everything together, as well as more time for those wanting to thoroughly review the language before the meeting.

As always, thanks for all your help.

Pam

-----Original Message-----

**From:** Milsap, Randi - DMA [mailto:Randi.Milsap@Wisconsin.gov]  
**Sent:** Friday, February 20, 2009 3:55 PM  
**To:** Shannon, Pam; Sweet, Richard; Ballweg, Joan; Barry, Sarah; Williams, Vincent  
**Cc:** Engle, Greg - OJA; Peterson, Steve - DMA  
**Subject:** E-gov Special Committee

All:

At the request of Representative Ballweg, I am attaching notional draft legislation regarding regional urban search and rescue task force teams (i.e. collapse rescue or specialty teams). This may be legislation that the Special Committee on Emergency Management and Continuity of Government would be interested in pursuing.

I prepared this draft several years ago and it is based upon the template used for the regional hazardous substance emergency response teams under s. 166.215. Wis. Stats. This draft includes a provision for an appropriation to fund the teams. Given the condition of the state budget, the teams know that this is a remote possibility. However it is my understanding that if we could provide workers compensation coverage and a civil liability exemption to the teams when acting as state agents, this may be a good first step.

If you have any questions, please do not hesitate to contact me.

Randi Wind Milsap  
Legal Counsel  
WI Dept. of Military Affairs  
2400 Wright Street  
Madison, WI 53708  
Phone: (608) 242-3072; DSN 724-3072



Secure Fax: (608) 242-3082; DSN 724-3082  
E-mail: randi.milsap@wisconsin.gov

## NOTIONAL DRAFT LANGUAGE

(5) The division shall notify the joint committee on finance in writing, before entering into a new contractual agreement under sub. (1) or renewing or extending a contractual agreement under sub. (1), of the specific funding commitment involved in that proposed new, renewed or extended contract. The division shall include in that notification information regarding any anticipated contractual provisions that involve state fiscal commitments for each fiscal year in the proposed new, renewed or extended contract. The division may enter into a new contractual agreement or renew or extend a contractual agreement, as proposed in the notification to the joint committee on finance, if within 14 working days after notification the committee does not schedule a meeting to review the division's proposed action. If, within 14 working days after notification to the joint committee on finance, the committee notifies the division that the committee has scheduled a meeting to review the division's proposed action, the division may enter into the proposed new contract or renew or extend the contract as proposed only if the committee approves that action.

### **895.483 Civil liability exemption; regional and local emergency response teams, regional urban search and rescue task force teams and their sponsoring agencies.**

(1) A regional emergency response team, a member of such a team, and a local agency, as defined in s. 166.22 (1) (c) , that contracts with the division of emergency management in the department of military affairs for the provision of a regional emergency response team, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under s. 166.215 (1) .

(2) A local emergency response team, a member of such a team and the county, city, village, or town that contracts to provide the emergency response team to the county are immune from civil liability for acts or omissions related to carrying out responsibilities pursuant to a designation under s. 166.21 (2m) (e) .

(3) A local emergency planning committee created under s. 59.54 (8) (a) 1. that receives a grant under s. 166.21 is immune from civil liability for acts or omissions related to carrying out responsibilities under s. 166.21 .

(4) A regional urban search and rescue task force team, a member of such a team, and a local agency, as defined in s. 166.22 (1) (c) , that contracts with the division of emergency management in the department of military affairs for the provision of a regional urban search and rescue task force team, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under s. 166. (1)

## NOTIONAL DRAFT LANGUAGE

3. Promulgate rules that establish the procedures that a regional urban search and rescue task force team shall follow to determine if an emergency that requires the team's response exists as the result of a structural collapse incident.

166. \_\_\_\_ is created to read:

**166. \_\_\_\_ Regional urban search and rescue response.**

(1) The division shall contract with no more than 4 regional urban search and rescue task force teams. Each regional urban search and rescue task force team shall assist in the emergency response to structural collapse incidents resulting from man-made, natural or technological events in a region of this state designated by the division. The division may only contract with a local agency, as defined in s. 166.22 (1) (c), under this subsection. A member of a regional urban search and rescue task force team shall meet the highest standards for structural collapse rescue under the National Fire Protection Association standards NFPA 1670 and 1006 [and add other standards]. Payments to regional urban search and rescue task force teams under this subsection shall be made from the appropriation account under s. 20.465 \_\_\_\_.

(2) The division shall reimburse a regional urban search and rescue task force team for costs incurred by the team in responding to an emergency involving a structural collapse incident, if the team followed the callout procedures and associated matrices in the rules promulgated under s. 166.20 (2) \_\_\_\_ to determine if an emergency requiring a structural collapse response existed. Reimbursement under this subsection is limited to amounts collected under s. 166.215(3) sub. (3) and the amounts appropriated under s. 20.465 (3) (dr). Reimbursement is available under s. 20.465 (3) (dr) only if the regional urban search and rescue task force team has made a good faith effort to identify the person responsible sub. (3) and that person cannot be identified, or, if that person is identified, the team has received reimbursement from that person to the extent that the person is financially able or has determined that the person does not have adequate money or other resources to reimburse the regional urban search and rescue task force team.

(3) A person shall reimburse the division for costs incurred by a regional urban search and rescue task force team in responding to an emergency if the team followed the procedures established under s. 166.20 (2) (bs) 1. to determine if an emergency requiring the team's response existed and if any of the following conditions applies:

(a) The person possessed or controlled a structure that was involved in the emergency.

(b) The person caused the emergency.

(4) A member of a regional urban search and rescue task force team who is acting under a contract under sub. (1) is an employee of the state for purposes of worker's compensation benefits.

## NOTIONAL DRAFT LANGUAGE

20.465(3)( ) is created to read:

### **20.465 (3) ( ) Emergency management services.**

( ) *Regional urban search and rescue task force teams.* The amounts in the schedule for payments to regional urban search and rescue task force team teams under s. 166.\_\_\_\_(1).

20.465(3)(dr) is amended to read:

(dr) *Emergency response supplement.* As a continuing appropriation, the amounts in the schedule to be used for response costs of a regional emergency response team that are not reimbursed under s. 166.215 (2) or (3), ~~and~~ for response costs of a local agency that are not reimbursed under s. 166.22 (4) and for response costs of a regional urban search and rescue task force team that are not reimbursed under 166.\_\_\_\_(2) or (3).

166.20(2) (bm) is amended to read:

**166.20(2) Duties of the division.** The division shall:

(bm) Promulgate rules establishing standards to determine all of the following:

1. If a regional or local emergency response team or a regional urban search and rescue task force team has made a good faith effort to identify a person responsible for the emergency involving a release or potential release of a hazardous substance under s. 166.215 (3) or 166.22 (4) or a person responsible for the emergency involving a structural collapse incident under s. 166.\_\_\_\_(3).

2. If a person responsible for the emergency involving a release or potential release of a hazardous substance under s. 166.215 (3) or 166.22 (4) or a structural collapse incident under 166.\_\_\_\_(3) is financially able or has the money or resources necessary to reimburse a regional or local emergency response team or a regional urban search and rescue task force team for the expenses incurred by the regional or local emergency response team or a regional urban search and rescue task force team in responding to the emergency.

166.20(2)(bs) is amended to read:

1. Promulgate rules that establish the procedures that a regional emergency response team shall follow to determine if an emergency that requires the team's response exists as the result of a level A release or a potential level A release.

2. Promulgate rules that establish the procedures that a local emergency response team shall follow to determine if an emergency that requires the team's response exists as the result of a release or potential release of a hazardous substance, as defined in s. 299.01 (6) .

**Nelson, Robert P.**

---

**To:** Shannon, Pam; Sweet, Richard; Randi.Milsap@wisconsin.gov

**Attachments:** 09-2230/P2

Here is a new draft based on a discussion I had with Randi.

Bob

Robert P. Nelson  
Senior Legislative Attorney  
608-267-7511

03/04/2009

**Nelson, Robert P.**

---

**From:** Sweet, Richard  
**Sent:** Monday, March 02, 2009 4:22 PM  
**To:** Milsap, Randi - DMA; Nelson, Robert P.  
**Cc:** Ryan, Robin; Shannon, Pam  
**Subject:** RE: Urban search and rescue teams

Sounds good. I think the problem word was "urban", since these are more than just urban teams.

Dick

---

**From:** Milsap, Randi - DMA [mailto:Randi.Milsap@Wisconsin.gov]  
**Sent:** Monday, March 02, 2009 4:17 PM  
**To:** Sweet, Richard; Nelson, Robert P.  
**Cc:** Ryan, Robin; Shannon, Pam  
**Subject:** RE: Urban search and rescue teams

I just got off the phone with my expert. He suggested we use "structural collapse teams" or "regional structural collapse teams". What are your thoughts?

Randi

Randi Wind Milsap  
Legal Counsel  
WI Dept. of Military Affairs  
2400 Wright Street  
Madison, WI 53708  
Phone: (608) 242-3072; DSN 724-3072  
Secure Fax: (608) 242-3082; DSN 724-3082  
E-mail: randi.milsap@wisconsin.gov

---

**From:** Sweet, Richard [mailto:Richard.Sweet@legis.wisconsin.gov]  
**Sent:** Monday, March 02, 2009 4:12 PM  
**To:** Milsap, Randi - DMA; Nelson, Robert P. - LEGIS  
**Cc:** Ryan, Robin - LEGIS; Shannon, Pam - LEGIS  
**Subject:** RE: Urban search and rescue teams

Randi,

I agree with Bob. I think the term "regional search and rescue" teams would be more accurate.

Thanks.

Dick

---

**From:** Milsap, Randi - DMA [mailto:Randi.Milsap@Wisconsin.gov]  
**Sent:** Monday, March 02, 2009 3:54 PM  
**To:** Nelson, Robert P.  
**Cc:** Ryan, Robin; Sweet, Richard; Shannon, Pam  
**Subject:** RE: Urban search and rescue teams

03/03/2009

Bob:

I agree that this may be a confusing term. At the time I drafted the notional legislation that was the terminology used nationally. I will check with my experts to see if the term has changed.

Thanks for all your assistance!

Randi

Randi Wind Milsap  
Legal Counsel  
WI Dept. of Military Affairs  
2400 Wright Street  
Madison, WI 53708  
Phone: (608) 242-3072; DSN 724-3072  
Secure Fax: (608) 242-3082; DSN 724-3082  
E-mail: randi.milsap@wisconsin.gov

---

**From:** Nelson, Robert P. [mailto:Robert.Nelson@legis.wisconsin.gov]  
**Sent:** Monday, March 02, 2009 3:46 PM  
**To:** Milsap, Randi - DMA  
**Cc:** Ryan, Robin - LEGIS; Sweet, Richard - LEGIS; Shannon, Pam - LEGIS  
**Subject:** Urban search and rescue teams

Randi,

I was wondering why the term "urban search and rescue" teams in this state, where there is much more rural than urban, and where a bridge or silo collapse could result in the need for search and rescue. Why is it called that? It seems very misleading if rural search and rescue is included. If not, then the term fits. We prefer that the statutes not mislead the reader, or the court.

Bob N

Robert P. Nelson  
Senior Legislative Attorney  
608-267-7511

03/03/2009



3/19  
State of Wisconsin  
2009 - 2010 LEGISLATURE

Wanted by 3/20 am

LRB-2230/P2

RPN:...

stays  
↓  
GF

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

and granting rule-making authority

1

AN ACT ...; relating to: regional structural collapse teams.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

166.218  
SECTION 1. 323.81 of the statutes is created to read:

323.81 Structural collapse emergency response. (1) A regional

structural collapse team shall assist in the emergency response to a structural

collapse incident in a region of this state designated by the division. The division

shall contract with local agencies, as defined in s. 323.80 (1) (b) to establish no more

than 4 regional structural collapse teams. A member of a regional structural collapse

team shall meet the highest standards for an structural collapse team under the

National Fire Protection Association standards NFPA 1006 and 1670.

(2) The division shall reimburse a regional structural collapse team for costs

incurred by the team in responding to an emergency involving a structural collapse



## SECTION 1

1 incident if the team determined<sup>es</sup> that a structural collapse emergency requiring a  
2 response existed as provided under the rules promulgated under sub. (5).  
3 Reimbursement under this subsection is limited to amounts collected under sub. (3).  
4 Reimbursement under this subsection is available only if the regional structural  
5 collapse team has done one of the following:

6 (a) Made a good faith effort to identify the person responsible under sub. (3) and  
7 that person cannot be identified.

8 (b) Identified the person responsible under sub. (3) and received  
9 reimbursement from that person to the extent that the person is financially able.

10 (c) Identified the person responsible under sub. (3) and determined that the  
11 person does not have adequate money or other resources to reimburse the regional  
12 structural collapse team.

13 (3) A person shall reimburse the division for costs incurred by a regional  
14 structural collapse team in responding to an emergency if the team determined<sup>es</sup>  
15 under the rules promulgated under sub. (5) that an emergency requiring the team's  
16 response <sup>exists</sup> did exist and that one of the following conditions <sup>applies</sup> apply:

17 (a) The person possessed or controlled a structure that was involved in the  
18 structural collapse.

19 (b) The person caused the structural collapse.

20 (4) A member of a regional structural collapse team who is acting under a  
21 contract under sub. (1) is considered an employee of the state for purposes of worker's  
22 compensation benefits.

23 (5) (a) The division shall promulgate rules establishing standards to be used  
24 to determine all of the following:

1 1. If a regional structural collapse team has made a good faith effort to identify  
2 a person responsible for the emergency involving a structural collapse.

3 2. If a regional structural collapse team has determined that a person  
4 responsible for the emergency involving structural collapse is financially able or has  
5 the money or resources necessary to reimburse the structural collapse team for the  
6 expenses incurred by that team in responding to the emergency.

7 (b) The division shall promulgate rules that establish the procedures that a  
8 regional structural collapse team shall follow to determine if a structural collapse  
9 emergency <sup>requiring</sup> ~~that requires~~ the team's response ~~does exist~~ <sup>exists</sup>.

10 SECTION 2. 895.483 (4) of the statutes is created to read:

11 895.483 (4) A regional structural collapse team, a member of such a team, and  
12 a local agency, as defined in s. <sup>166.22(1)(c)</sup> ~~323.80~~ (1) (b), that contracts with the division of  
13 emergency management in the department of military affairs for the provision of a  
14 regional <sup>structural collapse</sup> ~~emergency response~~ team, are immune from civil liability for acts or  
15 omissions related to carrying out responsibilities under a contract under s. <sup>166.218(1)</sup> ~~323.81~~.

\*\*\*\*NOTE: In the recodification of ch. 166 (ch 323) we provide indemnification, not immunity. Should this be the same? Should this section be moved to ch. 323 with the other liability issues related to disasters?



4/20  
State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-2230/PZ  
RPN:kjf:ph

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2009 Bill

Regen

- 1 AN ACT *to create* 166.218 and 895.483 (4) of the statutes; **relating to:** regional  
2 structural collapse teams and granting rule-making authority.

*Analysis by the Legislative Reference Bureau*

*Anal/SLC note →*  
*Ins. A*  
This is a preliminary draft. An analysis will be provided in a later version.

*Ins. A* → **The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

- 3 **SECTION 1.** 166.218 of the statutes is created to read:  
4 **166.218 Structural collapse emergency response.** (1) A regional  
5 structural collapse team shall assist in the emergency response to a structural  
6 collapse incident in a region of this state designated by the division. The division  
7 shall contract with local agencies, as defined in s. 166.22 (1) (c), to establish no more  
8 than 4 regional structural collapse teams. A member of a regional structural collapse  
9 team shall meet the highest standards for a structural collapse team under the  
10 National Fire Protection Association standards NFPA 1006 and 1670.

1           (2) The division shall reimburse a regional structural collapse team for costs  
2 incurred by the team in responding to an emergency involving a structural collapse  
3 incident if the team determines that a structural collapse emergency requiring a  
4 response existed as provided under the rules promulgated under sub. (5).  
5 Reimbursement under this subsection is limited to amounts collected under sub. (3).  
6 Reimbursement under this subsection is available only if the regional structural  
7 collapse team has done one of the following:

8           (a) Made a good faith effort to identify the person responsible under sub. (3) and  
9 that person cannot be identified.

10          (b) Identified the person responsible under sub. (3) and received  
11 reimbursement from that person to the extent that the person is financially able.

12          (c) Identified the person responsible under sub. (3) and determined that the  
13 person does not have adequate money or other resources to reimburse the regional  
14 structural collapse team.

15           (3) A person shall reimburse the division for costs incurred by a regional  
16 structural collapse team in responding to an emergency if the team determines under  
17 the rules promulgated under sub. (5) that an emergency requiring the team's  
18 response existed and that one of the following conditions applies:

19           (a) The person possessed or controlled a structure that was involved in the  
20 structural collapse.

21           (b) The person caused the structural collapse.

22           (4) A member of a regional structural collapse team who is acting under a  
23 contract under sub. (1) is considered an employee of the state for purposes of worker's  
24 compensation benefits.

(5) (a) The division shall promulgate rules establishing standards to be used to determine all of the following:

1. If a regional structural collapse team has made a good faith effort to identify a person responsible for the emergency involving a structural collapse.

2. If a regional structural collapse team has determined that a person responsible for the emergency involving structural collapse is financially able or has the money or resources necessary to reimburse the structural collapse team for the expenses incurred by that team in responding to the emergency.

(b) The division shall promulgate rules that establish the procedures that a regional structural collapse team shall follow to determine if a structural collapse emergency requiring the team's response existed.

**SECTION 2.** 895.483 (4) of the statutes is created to read:

895.483 (4) A regional structural collapse team, a member of such a team, and a local agency, as defined in s. 166.22 (1) (c), that contracts with the division of emergency management in the department of military affairs for the provision of a regional structural collapse team, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under s. 166.218 (1).

**(END)**

Get from  
Bob's e-mail

Insert A

Prefatory note to LRB-2230/P2 (structural collapse teams)

note: pref <sup>CS</sup> Joint Legislative Council prefatory note: no \$

This bill was prepared for the Joint Legislative Council's Special Committee on Emergency Management and Continuity of Government. The bill puts in place statutes governing regional teams established to respond to structural collapse emergencies. The bill directs the Division of Emergency Management (division) to contract with local agencies to establish no more than four regional structural collapse teams. Team members must meet specified National Fire Protection Association standards. A team member who is acting under a contract is considered an employee of the state for purposes of worker's compensation benefits. Teams, team members, and the local agencies that contract with the division are immune from civil liability for acts or omissions related to carrying out contract responsibilities.

note: pref X The bill specifies circumstances in which the division will reimburse a team for costs incurred in responding to a structural collapse emergency, as well as the obligation of a person responsible for a structural collapse to reimburse the division. The bill directs the division to promulgate rules establishing standards to be used to determine whether a team has: (1) made a good faith effort to identify a person responsible for a structural collapse emergency; and (2) determined the financial ability of a responsible person to reimburse the team for expenses incurred in responding to the emergency.

Prefatory note to LRB-2409/P1 (disaster assistance)

This bill was prepared for the Joint Legislative Council's Special Committee on Emergency Management and Continuity of Government. The bill provides \$1 million in general purpose revenue (GPR) in each fiscal year of the 2009-11 biennium for the state disaster assistance program. The program provides payments to local governments for a portion of damages and costs incurred in a major catastrophe if federal disaster assistance is not available.

## Nelson, Robert P.

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**From:** Shannon, Pam  
**Sent:** Monday, April 20, 2009 10:15 AM  
**To:** Nelson, Robert P.  
**Cc:** Ryan, Robin; Sweet, Richard  
**Subject:** Pref notes

**Attachments:** prefnotes.doc



prefnotes.doc (21  
KB)

Happy Monday, Bob.

Here are two pref notes: structural collapse teams and disaster assistance.

Dick is working on the others.

Pam

**Duerst, Christina**

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**From:** Shannon, Pam  
**Sent:** Thursday, May 21, 2009 9:35 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2230/1 Topic: Urban search and rescue units

Please Jacket LRB 09-2230/1 for the SENATE.